

AR 340-17

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CHANGE
No. 1

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 24 January 1975

OFFICE MANAGEMENT

RELEASE OF INFORMATION AND RECORDS FROM
ARMY FILES

Effective 19 February 1975

AR 340-17, 25 June 1973, is changed as follows:

1. New or changed material is indicated by a star.
2. Remove old pages and insert new pages as indicated below.

Remove pages	Insert pages
i	i
2-1 through 2-7	2-1 through 2-13
B-1 and B-2	B-1 through B-6
C-1 and C-2	C-1 and C-2
	D-1 and D-2

3. File this change sheet in front of the publication for reference purposes.

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications and Blank Forms) direct to HQDA (DAAG-AMR) Washington, DC 20314.

By Order of the Secretary of the Army:

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Chief of Staff

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Major General, United States Army
The Adjutant General

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*This change rescinds paragraphs 1-2 and 1-3, AR 340-17, 25 June 1973, DA messages DAAG-AMR-S, 27 February 1974, subject: Interim Change to AR 340-17, Change 1; and DAAG-AMR-S 200900Z September 1974; subject: Interim Change to AR 340-17, Release of Information and Records from Army Files.

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No. 340-17 }

HEADQUARTERS
DEPARTMENT OF THE ARMY
WASHINGTON, DC, 25 June 1973

OFFICE MANAGEMENT

RELEASE OF INFORMATION AND RECORDS FROM ARMY FILES

Effective 15 August 1973

This revision is intended to achieve greater uniformity and standardization in implementing the Freedom of Information Act. Local limited supplementation of this regulation is permitted, but is not required. If supplements are issued, Army Staff agencies and major Army commands will furnish one copy of each to HQDA (DAAG-AMR-S), Washington, DC 20314; other commands will furnish one copy of each to the next higher headquarters.

CHAPTER 1. GENERAL

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*This regulation supersedes AR 345-20, 30 June 1967, including all changes.

TAGO 318A

CHAPTER 1

GENERAL

1-1. Purpose. This regulation prescribes policies and procedures for releasing outside of the Department of the Army information contained in Army records.

1-2. General policies. *a.* Department of the Army policy is that maximum information will be made available from Army Records. Information requested from, or copies of, identifiable Army Records will be furnished unless the category of information is exempted from the requirement of disclosure by 5 USC 552 and paragraph 2-6. The initial denial authorities (para 2-7), however, may release exempted information (other than national security information or information whose non-disclosure is required by statute) if no legitimate purpose exists for withholding it. The commander/chief of a unit, installation, activity, or other element other than the initial denial authorities (or the Secretary of the Army in appeal actions) may not release exempted information but may recommend such release when forwarding requests to the initial denial authority (see procedures in para 2-7).

b. All requests for information will be acted upon promptly, fairly, and completely. Delay will not be permitted even though requests appear to be minor in nature. The fact that information from Army files may reveal or suggest errors or inefficiency will not be a basis for withholding it from the public.

1-3. Scope. This regulation applies to requests received from any source outside the Department of the Army. It is not intended to limit release of information to agencies or individuals in the Federal government whose official work duties entitle them to secure the records concerned. The policies in this regulation govern the release of information in all other instances. Requests for Army records will be denied only on the grounds authorized in this regulation, the Armed Services Procurement Regulation, and the Federal Personnel Manual, notwithstanding any limitations contained in the other regulations listed below. The following regulations set forth additional proce-

dures for the release of certain records or information.

- a.* Inspector General reports—AR 20-1
- b.* Claims reports—AR 27-20
- c.* Patents, inventions and copyrights—AR 27-60
- d.* US General Accounting Office audits—AR 36-20
- e.* Litigation—AR 27-40
- f.* Release of information and appearance of witnesses—AR 27-45
- g.* Technical reports—AR 70-31
- h.* Aircraft accident investigations—AR 95-30
- i.* Criminal investigation activities—AR 195-2
- j.* Prisoner classification data and correctional treatment files—AR 190-37
- k.* Medical records and files in records centers—AR 340-1
- l.* Disciplinary actions—AR 340-19
- m.* Army information, general policies on release—AR 360-5
- n.* Foreign nationals, release of information to—AR 380-10
- o.* Safety reports and records—AR 385-40
- p.* Military personnel records—AR 640-10
- q.* Civilian personnel records—CPR's 296-31, 700, 752-1, 771, M1, Federal Personnel Manual Chapters 293, 294, and 339
- r.* National security classified information—DOD 5200.1-R and AR 380-5
- s.* Procurement matters—Armed Services Procurement Regulation (ASPR) and Army Procurement Procedure (APP)
- t.* Safeguarding "For Official Use Only" information—AR 340-16

1-4. Explanation of term "records". *a.* For the purpose of this regulation, the following explanation of "record" is taken from 44 USC 3301 (Formerly 44 USC 366) ". . . all books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by an agency of the United

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States Government under Federal Law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its legitimate successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the

Government or because of the informational value of data in them."

b. The term "records" does not include objects or articles such as structures, furniture, paintings, sculptures, three-dimensional models, vehicles, and equipment.

★CHAPTER 2

RELEASE OF RECORDS (5 USC 552)

2-1. General policies. *a.* Department of the Army policy is that the prompt maximum release will be made of Army records. Access to and copies of identifiable Army records which are requested in writing will be furnished, unless exempted from the requirement of disclosure by 5 USC 552 (The Freedom of Information Act) as described in paragraph 2-12.

(1) Any reasonably segregable portion of a requested record will be furnished after deletion of the portions which are exempted from disclosure, for example, deletion of names or identity to preserve personal privacy, deletion or removal of properly classified portions, or deletion/exclusion of information from a non-Army agency (e.g., FBI data).

(2) Unless otherwise directed by the Initial Denial Authority (IDA) concerned, the action command or office receiving a request will release any exempted records in its possession, or reasonably available, which originated within or were prepared by that command or office, or any subordinate element thereof (other than records containing national security information or information whose nondisclosure is required by statute), if no legitimate purpose exists for withholding it.

(3) The Initial Denial Authorities will release exempted records and documents in their designated specialization areas (paragraph 2-7), other than national security information or information whose nondisclosure is required by statute, if no legitimate purpose exists for withholding it.

(4) No official other than those cited in (2) and (3) above and the Secretary of the Army may release exempted information.

(5) No official other than the IDA and the Secretary of the Army may deny a request for Army records.

b. All requests for records will be acted upon fairly and completely within the following time periods, as specified in 5 USC 552(a)(6):

(1) The action command or office must respond to any request within 10 days (excepting Saturdays, Sundays, and legal public holidays) after it has been received by the office having the records, notifying the requester in writing of its

determination. (See app. B for a list of officials in the Department of the Army to whom requests for specified categories of records must be directed.) That office will date/time-stamp each request upon receipt. The action command or office will establish such other procedures as required to assure that each case receives priority treatment during all phases of its processing.

(2) If the request is totally or partially denied by an IDA, the requester will be notified of the basis for the denial, the name and titles or positions of each person responsible for the denial of his request, and of his right to appeal to the Secretary of the Army (see 2-8a(3)). (Normally the person responsible for denial will be the IDA, that is, the head of the staff agency or command specified in para 2-7.)

(3) The Department of the Army must respond to any appeal within 20 days (excepting Saturdays, Sundays, and legal public holidays) after its receipt by the Office of the Secretary of the Army. If the initial denial of the request is upheld, in whole or in part, the requester will be notified of the provisions for judicial review of the denial under 5 USC 552(a)(6).

(4) In unusual circumstances, as set forth below, the time limits in either (1) or (3) above may be extended by not more than an additional 10 working days by written notice to the requester (see para 2-6f). This notice must be sent within the time limits in (1) or (3) above and will specify the reason for the extension and the date on which a determination is expected to be dispatched. The extension may be invoked only once during consideration of a request, either during the initial consideration period or during consideration of an appeal, but not both. Extension of the time limit during the initial consideration period may be invoked only by the responsible IDA, after coordination with the Army General Counsel. The unusual circumstances are:

(a) When there is a need to search for and collect the requested records from offices that are widely separated from the office processing the request; or,

(b) When there is a need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records demanded in a single request; or,

(c) When there is a need for consultation with another agency having a substantial interest in the determination of the request, or among two or more widely separated elements of the Department of the Army having substantial subject matter interest.

c. The fact that a record from Army files may reveal or suggest errors or inefficiency will not be a basis for withholding it from the public.

d. Whenever it appears that possible public/press interest may be generated as a result of any release or denial action, appeal or court review, Freedom of Information Act cases will be discussed with the Chief of Information or field command/organization Information Officer to insure public affairs awareness of the issues and to obtain advice and recommendations concerning such matters and their impact upon the Army. Point of contact for the Chief of Information is the Office for the Freedom of Information, DAIO-FOI, AUTOVON 22-74122 or Area Code 202, 697-4122.

e. Records releasable by commands subordinate to HQDA may also be released by the HQDA agency primarily concerned.

2-2 Scope. This regulation applies to written requests received from any source outside the Department of the Army. It does not preclude release of records to agencies or individuals in the Federal Government whose official work and duties require access to the records concerned. Paragraph 2-9 provides specific procedures for release of personal information to governmental organizations outside DOD. Except for information falling within the scope of 21 USC 1175 and 42 USC 4582(See DA Cir 600-85), requests for Army records will be denied only on the grounds authorized in this regulation, The Armed Services Procurement Regulation, and the Federal Personnel Manual, notwithstanding any limitations contained in other regulations. The following regulations set forth additional procedures for the release of certain records or information.

a. Inspector General reports—AR 20-1.

b. Claims reports—AR 27-20.

c. Patents, inventions and copyrights—AR 27-60.

d. US General Accounting Office audits—AR 36-20.

e. Litigation: release of information and appearance of witnesses—AR 27-40.

f. Medical records—AR 40-2, AR 40-42, AR 40-400, AR 40-403, and DA Circular 600-85.

g. Technical reports—AR 70-31.

h. Aircraft accident investigations—AR 95-1 AR 95-5, and AR 20-1.

i. Criminal investigation activities—AR 195-2.

j. Military Police files—AR 190-2, AR 190-37, AR 190-45 and AR 635-50.

k. Medical records and files in records centers—AR 340-1.

l. Disciplinary actions—AR 340-19.

m. Army information, general policies on release—AR 360-5.

n. Foreign nationals, release of information to—AR 380-10.

o. US Army Intelligence investigative files—AR 381-130, AR 381-45, and AR 381-46.

p. Safety reports and records—AR 385-40.

q. Alcohol and/or drug abuse records—AR 600-85 (to be published; see DA msg DTG 261951Z Feb 74).

r. Military personnel records—AR 640-10.

s. Civilian personnel records—CPR's 296-31, 700, 752-1, 771, M1, Federal Personnel Manual Chapters 293, 294 and 339, and AR 230-2.

t. National Security classified information—DOD 5200.1-R and AR 380-5.

u. Procurement matters—Armed Services Procurement Regulation (ASPR) and Army Procurement Procedure (APP).

v. Safeguarding "For Official Use Only" information—AR 340-16.

2-3. Requests for Army records. a. A request for Army records will be deemed to have been received, under the Freedom of Information Act, only if such a request—

(1) Indicates in writing, expressly or implicitly, that records are being requested under the Freedom of Information Act, and

(2) Reasonably describes the records, and

(3) Is made in accordance with requirements of this regulation, concerning the time, place to address, fees, and procedures to be followed. (See appendix B for list of officials to whom requests for specified categories of records must be directed. See paragraph 2-6b with regard to the requirement that a requester pay, or agree to pay, in advance,

all fees assessed; incident to processing of his request.)

b. There is no obligation to create a record to satisfy a request for information. When the information requested must be released but exists in the form of several records at several locations, the applicant will be referred to those sources if gathering the information would be so burdensome as to interfere materially with the operations of the Army.

c. If the requested record originated outside the Department of the Army, the request will be returned to the requester, advising him to send it to the appropriate agency, if he desires, and providing him with the name or title, address, and other appropriate information regarding such agency. An information copy of the request and the letter of referral will be forwarded promptly to the agency that may expect the request. A person who requests a copy of material primarily concerning a member of Congress or a Congressional Committee, or a copy of a transcript of testimony given before a Congressional Committee, will be advised to direct his request to the member or committee concerned.

2-4. Examination and reproduction of records.

a. Authority to release records includes authority to permit their examination. When authority to examine records is granted, the examination normally will be permitted at the place where the papers are maintained or stored, during regular business hours, and under such circumstances and procedures as are deemed appropriate by the custodian.

b. Original and record copies of Army records will not be released. Copies will be furnished instead. A charge will be imposed in accordance with Appendix D for conducting a search and preparing copies of records. This charge may be imposed even where the search has been unsuccessful or unproductive.

2-5. Use of expeditious communications. The time limits imposed by 5 USC 552(a)(6) (see para 2-1b) require that all personnel involved in processing a request from the public for records handle the case without delay. The use of telephone, priority message, facsimile transmission, or other expeditious means of communication is authorized for this purpose.

2-6. Responsibilities of officials receiving initial

requests. a. If a request has been misdirected by the requester, the following actions, as appropriate, will be taken as quickly as possible within the mandatory time limits:

(1) If the request is of proper concern to another Army element, it will be marked conspicuously on the forwarding envelope FREEDOM OF INFORMATION REQUEST and hand-carried or forwarded to that element by the most expeditious means. A notice of the referral will be furnished the requester. If feasible, advance information concerning the request will be telephoned to the element receiving the referral. Upon receipt, that element will notify the requester that his request has been received by the proper authority and the 10-day initial period required by law commenced on date of receipt).

(2) If the request is of proper concern of an agency outside the Army, it will be returned to the requester, advising him to refer it to the appropriate agency if he desires; and providing him with the name or title, address, and other appropriate information regarding such agency. An information copy of the request and the letter of referral will be forwarded promptly to the agency that may expect the request.

(3) If the information requested is a combination of Army material and one or more identifiable sources other than Army, the Army portions will be reviewed and acted upon; if practicable, the other portions will be referred to the originating agencies. Within the time limits imposed the requester will be provided with releasable Army information, if any, and advised where to obtain release of the non-Army material.

b. When a request is received by the proper official to whom such category of requests must be directed (see app B), that official will commence processing the request, in accordance with this regulation and take one of the following actions:

(1) Unless the request specifically states that the requester will pay whatever cost is involved in processing the request, the official will estimate the total amount of fees expected to be assessed for processing the request (see app D), and, if such estimate is \$10.00 or more, will promptly notify the requester, in writing, of the estimate. Such notification will advise the requester that he must submit payment in advance to cover the amount of the estimate; that the time limit specified in paragraph 2-1b(1) will not begin to run until

payment is received; and that should the final amount of fees assessed at the completion of the processing of his request be greater or less than the estimate, an additional fee will be assessed or reimbursement made, as appropriate; or

(2) If the request specifically states that the requester will pay whatever cost is involved in processing the request, or if the total amount of fees expected to be assessed for processing the request (see app D) is less than \$10.00, the official will immediately commence processing of the request in accordance with this regulation.

c. If a request conforms with the requirements of paragraph 2-3 the action command or office receiving the request will, within 10 working days after receipt of the request, notify the requester in writing of favorable action on his request if:

(1) The requested record does not fall under one or more exemptions in paragraph 2-12; or

(2) The requested record originated within or was prepared by such command or office, or any subordinate element thereof is in its possession or reasonably available, and no legitimate purpose exists for withholding it, even though such record may fall within one or more exemptions in paragraph 2-12 (other than records containing national security information or information whose nondisclosure is required by statute). Favorable action may consist of forwarding a copy of the requested record if the provisions of Appendix D authorize release without fees or if payment of fees has already been made; or forwarding a notice of the availability of the record and the amount of fees due, upon receipt of which, the documents will be furnished promptly. (This notification will be made within the 10 working-day period even if preparing the requested record for examination or dispatch will require a period of time longer than ten working days. In such case, the notification will include the date on which the requested record is expected to be ready for examination or dispatch. Such notification will serve to satisfy the requirement for a determination within 10 working days, and no extension of the time limit will be necessary.)

d. If in the judgment of the reviewing official, the request involves a record which falls under one or more of the exemptions cited in paragraph 2-12, and that official either is not authorized to

release the record, or determines that a legitimate purpose exists for withholding it, he will—

(1) At the earliest possible moment, telephone or otherwise promptly notify the responsible IDA specified in paragraph 2-7 to alert him of an impending referral of the request, and to discuss the case and mutual arrangements to expedite action, e.g., to assure availability to the IDA of copies of the requested documents, the means of transmitting the case, and related matters.

(2) Mark the forwarding envelope **FREE-
DOM OF INFORMATION REQUEST** conspicuously, and forward the request to the IDA immediately, providing a citation of the appropriate exemption and stating the reasons release is or is not recommended. He will include copies of the requested documents if deemed necessary during telephonic coordination of the case. He will also include his opinion whether a legitimate purpose exists for withholding the information.

(3) Advise the requester in writing within 5 working days, that his request has been forwarded to a higher authority for action and direct reply. The name or title and address of both the forwarding and the higher official will be provided so that the requester may communicate with either party. This notification will neither state nor imply release or denial, as denial decisions will be made and communicated solely by the IDA.

e. If a request conforms with the requirements of paragraph 2-3, but the requested record is not available, the requester will be notified within 10 working days after receipt of the request. If there is an explanation for the records, nonavailability, e.g., destroyed pursuant to approved records disposition standards or not located after thorough search, this information will be included in the reply. In all cases of negative replies of this nature, an information copy of the request and reply will be forwarded promptly to HQDA (DAAG-AMR), WASH DC 20314.

f. If a request conforms with the requirements of paragraph 2-3, but the official receiving the request estimates that it will require more than 10 working days to arrive at a determination regarding the request, he will, in addition to commencing processing of the request, immediately contact the responsible IDA who, after consultation with the Army General Counsel, may authorize the

official to invoke the 10 working day extension period or direct other appropriate action.

g. All Freedom of Information Act requests from representatives of the press or other mass communications media will be directed to the appropriate command/organization information officer. Information officers receiving requests for records and documents will coordinate with appropriate officials, in accordance with the guidances provided in this regulation, to determine releasability of the information. In the event the documents requested fall under one or more of the exemptions, direct communication will be established with the Chief of Information, Public Information Division, AUTOVON 22-75662 or Area Code 202, 697-5662 for referral of the request to appropriate IDA.

2-7. Initial denial authorities (IDA). *a. General responsibilities.* The officials indicated in *b* below are designated as the sole Initial Denial Authorities of the Department of the Army. Each IDA is responsible for acting on referrals received from officials under the provisions of paragraph 2-6*d* and on requests received directly by his agency when he is the official to whom such requests must be directed (see app B); for maintaining data and submitting information to TAG for the annual report described in paragraph 2-13; and for other matters covered in this regulation. Each IDA will appoint a single point of contact to represent him in all matters covered in this regulation. This does not preclude the designation of additional individuals to handle FOIA actions when an IDA has responsibility for more than one area of specialization. The names, offices, and telephone numbers of the individual appointed as single points of contact will be furnished The Adjutant General (ATTN: DAAG-AMR-S), Forrestal Building, Washington, DC 20314.

b. Assigned areas of authority. The IDA are assigned authority in the areas of specialization listed below, to act on referrals from officials under paragraph 2-6, and on requests sent directly to them. They will coordinate all matters relating to the release of exempted information which have public affairs aspects with the Chief of Information or with the appropriate information officer in accordance with AR 10-5 and AR 360-5. In cases where the information requested (exempted or otherwise) is related to actual or potential litigation against the United States, its release will

be coordinated with The Judge Advocate General (Litigation Division, HQDA (DAJA-LT), AUTOVON 22-51644 or Area Code 202, 695-1644; see paragraph 2-11).

(1) The Adjutant General is authorized to act on—

(a) Requests for personnel and medical records of retired, separated, or Reserve component military personnel. Requests for medical records of former military personnel, not covered by AR 340-1, will be coordinated with The Surgeon General.

(b) Requests for national security classified records. As necessary, The Adjutant General will coordinate with the agency having cognizance over the subject matter.

(c) In requests involving both national security records and records falling under another exemption listed in paragraph 2-12, The Adjutant General will coordinate national security information aspects as indicated in (b) above. He will coordinate information also falling under another exemption with the appropriate officials specified in (2) through (12) below. The Adjutant General is responsible for consolidating the data and for insuring that a coordinated action is completed at the initial denial level.

(2) Commanding General, United States Army Military Personnel Center (MILPERCEN) is authorized to act on requests for records relating to active duty military personnel matters, including military personnel files, ADP records and data, case summaries, letters of instructions to boards, and other military personnel administration records.

(3) The Surgeon General is authorized to act on requests involving medical records of active duty military personnel, dependents, and any person given a physical examination or who has received treatment at Army medical facilities and medical research and development matters.

(4) The Deputy Chief of Staff for Personnel is authorized to act on requests involving civilian personnel records, and behavioral science matters, and military police reports, except for DA Forms 3975 (Military Police Report) and 3946 (Military Police Traffic Accident Investigation Report).

(5) The Inspector General and Auditor General is authorized to act on requests involving Inspector General reports in accordance with AR

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20-1, aircraft safety investigations, and audits and reports prepared by the Army Audit Agency.

(6) The Chief of Chaplains is authorized to act on requests involving ecclesiastical rites performed by Army Chaplains, and privileged communications related to the clergy.

(7) The Chief of Engineers is authorized to act on requests involving civil works as defined in appendix B, military construction matters, engineer procurement, and ecology matters.

(8) Commanding General, United States Army Criminal Investigation Command is authorized to act on all requests involving criminal investigation records (to include military police reports which are part of criminal investigation reports) and investigations in progress.

(9) Commanding Officer, United States Army Intelligence Agency is authorized to act on all requests involving US Army intelligence investigative files.

(10) The Comptroller of the Army is authorized to act on all requests for finance and accounting records.

(11) Commanding General, United States Army Materiel Command is authorized to act on all requests involving procurement records within that command.

(12) The Judge Advocate General is authorized to act on all other requests including requests for data from DA Forms 3975 (Military Police Report) and 3946 (Military Police Traffic Accident Investigation Report). He is also authorized to act on requests within the purview of (1) through (11) above in cases involving litigation in which the United States has an interest.

c. Exceptions.

(1) IDA may release exempted records described in paragraphs 2-12b through i in accordance with paragraph 2-1, unless nondisclosure is required by statute. Materiel exempted under paragraph 2-12a may not be released under this paragraph, but must be declassified before release in accordance with the provisions of Department of Defense Regulation 5200.1-R and AR 380-5.

(2) Denial or approval by IDAs of the release of exempted records in response to requests from mass communications media representatives will be forwarded to the Chief of Information (DAIO-PID) for transmittal to the requester within statutory time limits.

2-8. Responsibilities of IDA. *a. Referrals from other elements of DA.* Where a request has been referred to an IDA under provisions of paragraph 2-6, he will—

(1) Immediately determine whether the request should be granted or denied, in whole or in part, accomplishing coordination, as necessary, on a personal contact basis. In arriving at this determination, he will apply the following guidance:

(a) Any reasonably segregable portion of a requested record will be furnished after deletion of the portions which are exempted from disclosure; and

(b) Any exempted record, or reasonably segregable portion thereof (other than portions containing national security information, information whose nondisclosure is required by statute, or information relating to matters in litigation), will be released if no legitimate purpose exists for withholding it.

(2) If the determination is favorable, the IDA will notify the requester in the manner described in paragraph 2-6c. Such notification must be made within 10 working days after receipt of the request by the official to whom it was properly directed. In those cases when the IDA is able to make a decision without the documents, the custodian will be directed to release the documents promptly to the requester.

(3) If the decision is unfavorable, in whole or in part, the IDA will—

(a) So advise the requester in writing within the same 10-day time period (see (2) above), furnishing the reason for the denial, with reference to appropriate exemption set forth in paragraph 2-12, citing the specific subparagraph of 5 USC 522(b); providing the name and title or position of the denial authority; and informing him of his right to appeal directly to the Secretary of the Army (ATTN: General Counsel).

(b) Forward an advance information copy of the request and the denial to the Office of the General Counsel, Office of the Secretary of the Army.

(c) Maintain, or be able to obtain and provide to the General Counsel within 48 hours, all pertinent material including copies of the requested documents.

(d) Assist the Army General Counsel, during his processing of any appeal from the denial.

b. Initial requests. When a request is received initially by an IDA who is the official to whom requests for such records must be directed (see app B) he will process the request in accordance with the procedures in paragraphs 2-6 and 2-8a above.

c. Time limitations on responses. As indicated in paragraph 2-1b, above, the Freedom of Information Act imposes strict time limits on responses to requests. In acting upon requests, the IDA will apply the following procedures, as appropriate.

(1) During initial telephone coordination with elements receiving the request, the IDA will—

(a) Obtain all information concerning the request necessary to begin an immediate review from sources available to him, if possible, while awaiting referral.

(b) Otherwise, will insure that documents are forwarded with the request by the fastest possible means.

(2) During review, he will insure that the case is handled on the highest priority basis, with an action officer effecting coordination on a personal contact, hand-carry basis.

(3) The IDA may invoke the extension period only in circumstances specified in the statute (para 2-1b(4) above) and only where an extension is deemed essential. The Army General Counsel will be consulted before invoking the extension period. When invoked, the minimum number of days will be used since every day of the extension expended during the initial review will be unavailable to the final appellate authority.

(4) In those cases when a determination cannot be made within the prescribed time limit, or where a record cannot be found, the IDA may—

(a) Contact the requester by telephone or other expeditious means,

(b) Explain to him why the request cannot be handled within the statutory time limit, and

(c) Inform him that he may treat this as an initial denial with a right to appeal, or that he may agree to await a substantive response by an anticipated date. If a voluntary extension is agreed upon, it will be formally documented by the IDA in written correspondence. The IDA must advise the requester, both during any informal oral discussions and in writing, that the further extension is entirely voluntary, that his agreement constitutes a waiver of the statutory

time period, and that it does not prejudice his right to appeal the initial decision after it is made.

d. Denial based on national defense or foreign policy. Records denied in the interests of national defense or foreign policy (5 USC 552(b)(1)) must in fact be properly classified. The letter of denial will consequently cite the specific provision of Executive Order 11652 and DOD Regulation 5200.1-R relied upon as authority for classification of the records.

2-9. Release of records to specified members of the public. Even though the following records are exempt from disclosure to the general public, they will be released on request to the individuals specified below, within the mandatory time limits prescribed in paragraph 2-1b.

a. Medical records. The following information will be released by commanders/chiefs of medical treatment facilities ((1) through (9) below) or records centers ((4) through (9) below).

(1) Information on the condition of sick and injured patients will be released to the relatives of such patients, in order to allay their anxiety.

(2) Information that the patient's condition has reached a critical stage will be released to the nearest known relative, or to the person designated by the patient to be informed in case of an emergency.

(3) Information that a diagnosis of psychosis has been made will be released to the nearest known relative or to the person designated by the patient.

(4) Information will be released to local officials concerning births, deaths, and cases of communicable diseases when such reports are required by pertinent local laws.

(5) Medical records relating to present or former military personnel, dependents, civilian employees, or patients in a medical treatment facility of the Department of the Army are the proper and direct concern of the individual to whom they pertain. Copies of extracts from the medical record will be released to the individual concerned upon his request or to his representative designated in writing unless, in the opinion of his attending physician, it could be injurious to his physical or mental health. In the event he has been adjudged insane or is dead, the records are the proper and direct concern of the next of kin or patient's legal representative and will be released

to the patient's next of kin or patient's legal representative on written request. If the information might prove injurious to the health of the patient, the information will not be released to him; it will be released only to his next of kin, legal representative, or physician assuming responsibility for the patient's treatment.

(6) Copies of medical records may be furnished to a Federal or State hospital or penal institution when the individual to whom they pertain is a patient or an inmate therein. If the patient or his legal representative consents, the medical records of the patient will be released to a civilian physician.

(7) Copies of medical records, or information from the records, may be furnished to authorized representatives of the National Academy of Sciences, National Research Council, or other accredited agency, when they are engaged in cooperative studies undertaken at the specific request of, or with the consent of, The Surgeon General of the Army, except for information falling within the scope of 21 USC 1175 (drug) and 42 USC 4582 (alcohol) (see DA Cir 600-85).

(8) In connection with the collection of claims in favor of the Government, pertinent portions of an injured party's medical records may be furnished to the staff judge advocate or legal officer of the command for release to the tortfeasor's insurer, if appropriate, even though the injured party does not consent.

(9) Information released to third persons under the provisions of (5), (6), and (7) above will be accompanied by a statement that the information is released upon condition that it will not be disclosed to other persons, except in accordance with the accepted limitations which relate to privileged communications between doctor and patient.

b. Military personnel records. Military personnel records will be safeguarded and released by the custodian in accordance with the following:

(1) The Department of the Army is required by statute to provide certain information relating to the service of an individual (statement of military service) to that individual or his legal representative. (Sec 601 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended; 50 USC app 581.)

(2) Papers relating to applications for, designation of beneficiaries under, and allotments in

payment of premiums for National Service Life Insurance or Servicemen's Group Life Insurance are the proper and direct concern of the applicant or insured and will be released to him. In the event of insanity or death of the insured, the beneficiaries designated in the policies, or the next of kin, are considered to have direct and proper concern in these records, and the records will be released to them.

(3) Copies of Army documents recording the death of a member of the military service, a dependent, or a civilian employee will be released to his next of kin, his life insurance carrier, and his legal representative. Requests for information or records by individuals acting in a representative capacity on behalf of another individual will include evidence in writing of the requester's representative capacity. In cases where the release of the requested information is limited to the individuals concerned, the records may be released to other individuals or organizations upon presentation of evidence in writing of the consent of the individual concerned.

(4) Papers relating to the pay and allowances or allotments of a member or former member of the military service will be released to the individual to whom they pertain, his authorized representative, or in the case of deceased personnel, the next of kin or legal representative.

c. Civilian personnel records. Civilian personnel officers having custody of papers relating to the pay and allowances or allotments of current or former civilian employees will release them to the individual to whom they pertain, his authorized representative, and, in the case of deceased employees, the next of kin or legal representative. Authority to release civilian personnel records does not include authority to release statements of witnesses, medical records, or other reports or documents pertaining to compensation for injuries or death of an Army civilian employee (para 1-4, chapter 339, Federal Personnel Manual). Such information will be released only by appropriate officials designated in paragraph 2-7.

2-10. Release to Congress. *a. Congressional requests.* Requests by members of Congress (or staffs of Congressional committees) for inspection or copies of official records will be handled as follows:

(1) *National security classified records.* Applicable provisions of DOD 5200.1-R and AR 380-5 will be followed.

(2) *Civilian personnel records.* Members of Congress may examine official personnel folders in accordance with applicable instructions governing the release of disciplinary action information (FPM 294.7 and AR 340-19).

(3) *Information pertaining to disciplinary action.* See AR 340-19.

(4) *Military personnel records.* Information from these records will not be released except by authority of HQDA. Custodians will refer all requests from Members of Congress (or staffs of Congressional committees) directly and promptly to the Chief of Legislative Liaison, Department of the Army, Washington, DC 20310.

(5) *Criminal investigation records.* See US Army Criminal Investigation Command CIDR 195-16.

(6) *Other exempt records.* Requests for all other categories of information exempted from mandatory release under paragraph 2-12 will be referred by commanders/chiefs to the Chief of Legislative Liaison, Department of the Army, Washington, DC 20310, by the most expeditious means. Referrals will include a copy of the material requested and, as appropriate, recommendations concerning its release or denial.

(7) *All other records.* All other information will be furnished promptly by the commander/chief having custody of the records.

b. Notification of releases to Congress. Commanders/chiefs will notify the Chief of Legislative Liaison, Department of the Army, of all releases of information to Members of Congress or staffs of Congressional committees. Exceptions may be made in routine cases by organizations which in the normal course of business are required to provide information to Congress.

2-11. Litigation, tort claims and contract disputes. Release of information or records under this paragraph is subject to the time limitations prescribed in paragraph 2-1 and to the requirements to advise the requester of the reasons for non-release or referral.

a. Litigation.

(1) Each request for a record which relates to pending litigation involving the United States will be referred to the staff judge advocate or legal officer of the command who, in turn, will promptly communicate the substance of the request and contents of the record requested to the Litigation

Division, Office of the Judge Advocate General. (Mailing Address: HQDA (DAJA-LT), Washington, DC 20310, AUTOVON 225-1644 or area code 202 695-1644.

(2) Whenever information is released under the provisions of this regulation for use in litigation involving the United States, the official responsible for investigative reports (para 2-4, AR 27-40) will be advised of such release so that he may include a notation in any investigative report he may be required to submit pursuant to chapter 2, AR 27-40.

(3) A request for information or records normally exempted, e.g., personnel and medical records, for use in litigation to which the United States is not a party, may be releasable to the judge or court concerned. Such requests will be referred to the local staff judge advocate or legal officer for coordination with the Litigation Division, OTJAG. Mailing address: HQDA (DAJA-LT), Washington, DC 20310, AUTOVON 225-1644 or area code 202 695-1644.

b. Tort claims.

(1) Each request from a claimant or his attorney for a record, including requests listed in paragraphs 2-3 and 2-9, which relates to a pending administrative tort claim that has been filed against the Army, will be referred promptly to the claims approving or settlement authority with monetary jurisdiction over the pending claim (AR 27-20). If the request concerns an incident in which a claim is pending but in which a larger potential claim exists that has not yet been filed, the authority with monetary jurisdiction over the potential claim will receive the request.

(2) If no administrative tort claim has been filed, and the request is made by a potential claimant or his attorney under circumstances clearly indicating that he desires to obtain a record for use in connection with the filing of such a claim, the request will be referred to the authority named in (1) above. That authority, when subordinate, will in turn communicate promptly the substance of the request and the contents of the record to Chief, US Army Claims Service, Fort George G. Meade, MD 20755 (AUTOVON 923-7860; commercial: area code 301, 677-7860).

(3) IDA officials listed in paragraphs 2-7b (1) through (11) who receive such requests will refer them directly to Chief, US Army Claims

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Service, and will advise requester of the referral and the basis for it.

(4) The Chief, US Army Claims Service will process the request in accordance with this regulation and paragraph 1-6, AR 27-20.

c. Contract disputes. Each request for a record which relates to a potential contract dispute or a dispute that has not reached "final decision" by the contracting officer shall be treated as a request for "procurement records" and not as "litigation," except that the officials listed in paragraphs 2-6, 2-7, and 2-9 shall consider the impact of release upon the potential dispute procedures and may consult with The Judge Advocate General, ATTN: JAAJ-CAD, Nassif Building, 5611 Columbia Pike, Falls Church, VA 22041, AUTOVON 289-2460 or area code 202 756-2460. Each request for a record which relates to a pending contract appeal to the Armed Services Board of Contract Appeals, or to a "final decision" that is still subject to appeal (i.e., 30 days have not lapsed after receipt of the "final decision" by the contractor), shall be treated as a request involving a contract dispute and will be referred to The Judge Advocate General, JAAJ-CAD.

2-12. Exemptions. The following categories of records are exempt under 5 USC 552(b) from mandatory release:

a. Those properly classified in the interests of national security pursuant to DOD 5200.1-R and AR 380-5 (5 USC 552(b)(1)).

b. Those containing rules, regulations, orders, manuals, directives, and instructions which provide only internal guidance to DOD personnel (5 USC 552(b)(2)). Examples are—

(1) Operating rules, guidelines, and manuals for investigators, inspectors, auditors, and examiners, and schedules or methods involved.

(2) Negotiating and bargaining techniques, positions, and limitations.

(3) Personnel and other administrative matters, such as examination questions and answers used in training courses or in the determination of the qualification of candidates for employment, entrance to duty, advancement, or promotion.

c. Those containing information which statutes authorize or require to be withheld from the public (5 USC 552(b)(3)). Examples are—

(1) Trade and financial information provided in confidence by business (18 USC 1905).

(2) Technical data, including such data

regarding munitions (50 USC 2023 and 22 USC 1934).

(3) National Security Agency information (50 USC 402).

(4) Information relating to inventions which are the subject of patent applications on which Patent Secrecy Orders have been issued (35 USC 181-188).

(5) Records of drug abuse patients (21 USC 1175, 42 USC 4582).

d. Those containing trade secrets or commercial or financial information which was received with the understanding that it will be retained on a privileged or confidential basis in accordance with customary handling of such records (5 USC 552(b)(4)). Such records include those which contain:

(1) Information customarily considered privileged or confidential under the rules of evidence in the Federal courts, such as information coming within the doctor-patient, lawyer-client, and priest-penitent privileges.

(2) Commercial or financial information received in confidence in connection with loans, bids, contracts, or proposals, as well as other information received in confidence or privileged, such as trade secrets, inventions and discoveries, or other proprietary data.

(3) Statistical data and commercial or financial information concerning contract performance, income, profits, losses and expenditures, if offered and received in confidence from a contractor or potential contractor.

(4) Personal statements given in the course of inspections, investigations, or audits, where such statements are received in confidence from the individual and retained in confidence because they cover trade secrets or commercial or financial information normally considered confidential or privileged, or because they are essential to an effective inspection or audit and could not otherwise be obtained.

e. Except as provided in subparagraph (2) through (5) below, internal communications within and among agencies and commands (5 USC 552(b)(5)).

(1) Examples include: —

(a) Staff papers containing staff advice, opinions, or suggestions.

(b) Information received or generated by a command or office preliminary to a decision or

action, including draft versions of documents, where premature disclosure would interfere with the authorized purpose for which the records were created.

(c) Advice, suggestions, or reports prepared on behalf of the Army by boards, committees, councils, groups, panels, conferences, commissions, task forces, or other similar groups that are formed by a command or office to obtain advice and recommendations, or by individual consultants.

(d) Those portions of Army evaluations of contractors and their products which contain recommendations or advice by government employees about the contractor or product.

(e) Advance information on such matters as proposed plans to procure, lease, or otherwise acquire and dispose of materials, real estate, facilities, or functions when such information would provide undue or unfair competitive advantage to private personal interests.

(f) Records which are exchanged among command or office personnel or within and among the military services, commands, or offices preparing for anticipated legal proceedings before any federal, state or military court or before any regulatory body.

(g) Reports of inspections, legal opinions, audits, investigations, or surveys which pertain to safety, security, or the internal management, administration, or operation of the Department of the Army or one of its commands or offices.

(2) If any such intra- or inter-agency record, or reasonable segregable portion of such record, would routinely be made available through the discovery process (the process by which litigants obtain information relevant to a case prior to a trial or hearing) in the course of litigation with the agency, then it should not be withheld from the general public. If, however, the information would only be made available through the discovery process by special order of the court based on the particular needs of a litigant balanced against the interests of the Army in maintaining its confidentiality, then the record or document should not be made available to a member of the general public.

(3) Factual records or segregable portions of intra- or inter-agency memorandums or letters are routinely made available through discovery, and should, therefore, be made available to a

requester unless the factual material is otherwise exempt from release under paragraph 2-12.

(4) A direction or order from a superior to a subordinate, though contained in an internal communication, is generally not withholdable from a requester if it constitutes policy guidance or a decision, as distinguished from a discussion of preliminary matters that would compromise the decision-making process.

(5) An internal communication concerning an event or decision which has subsequently been made a matter of public record, or was among officers or employees (or members of the armed forces) who no longer are actively employed by the Department of Defense or its components, should normally be made available to a requester, unless it is determined that because of special circumstances release would prejudice the current decision-making process.

f. Information in personnel, medical, and similar files which, if disclosed to a member of the public, would result in a clearly unwarranted invasion of personal privacy (5 USC 552(b)(6)). (When the sole and exclusive basis for withholding information from an individual is the protection of his own personal privacy, the information will not be withheld from him or from his designated legal representative. The requester may be required to furnish reasonable and appropriate identification.)

(1) Examples of files similar to medical and personnel files are those—

(a) Compiled to evaluate or adjudicate the suitability of candidates for civilian employment and the eligibility of civilian, military, or industrial individuals for security clearances.

(b) Containing reports, records, and other material pertaining to individual cases in which administrative action may be taken.

(2) In determining whether the release of information would result in a clearly unwarranted invasion of privacy, consideration should be given, in cases involving alleged misconduct, to the relationship of the alleged misconduct to an individual's official duties, the amount of time which has passed since the alleged misconduct, and the degree to which the individual's privacy has already been invaded by any investigation or proceedings which have taken place. For example, after completion of appellate review, unclassified records of court-martial proceedings should always

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be made available, since they represent a record of proceedings open to the public in which the relevant conduct of the member has been fully explored. (Records of court-martial proceedings may be made available at an earlier stage if to do so, in the judgment of The Judge Advocate General, would not adversely affect the appellate process.)

(3) Requests for access to, or release of, records of court-martial proceedings of general courts-martial or special courts-martial involving a bad conduct discharge, prior to completion of appellate review, should be processed in accordance with paragraph B-5, appendix B.

(4) This guidance does not preclude the furnishing of records of trial to an accused.

g. Investigatory files compiled for the purpose of enforcing civil, criminal, or military law (5 USC 552(b)(7)), including Executive Orders or regulations validly adopted pursuant to law, but only to the extent that release of such records would—

(1) Interfere with enforcement proceedings;
(2) Deprive a person of a right to a fair trial or an impartial adjudication;

(3) Constitute an unwarranted invasion of personal privacy (subject to limitation set forth in 2-12f above);

(4) Disclose the identity of a confidential source;

(5) Disclose confidential information furnished by a confidential source, but only in the instance of records compiled by a criminal law enforcement authority in the course of a criminal investigation or by an agency conducting a lawful national security intelligence investigation;

(6) Disclose nonroutine investigative techniques and procedures, or

(7) Endanger the life or physical safety of law enforcement personnel. This exemption includes statements of witnesses and other material based on the information developed during the course of the investigation and all materials prepared in connection with related Government litigation and adjudicative proceedings, to the extent such materials fall within one or more of the categories described above. The term "national security" as used above, includes military security, national defense, and foreign policy. The term "intelligence" as used above, includes positive intelligence-gathering activities, counter-

intelligence activities, and background security investigations by Government units which have authority to conduct such functions. Any rights conferred by existing law or regulation upon specified persons or classes of persons to obtain access to investigatory records are not hereby diminished.

h. Records contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of any agency responsible for the regulation or supervision of financial institutions (5 USC 552(b)(8)).

i. Documents containing geological and geophysical information and data (including maps) concerning wells (5 USC 552(b)(9)).

2-13. Annual reporting requirements. a. 5 USC 552(d) requires that each agency will submit to the Congress on or before 1 March annually a report covering the preceding calendar year's actions under the Act. The Adjutant General is responsible for compilation and submission of the report (Reports Control Symbol DD-PA(A)1635). The Adjutant General will forward the report through the Chief of Staff, US Army, for transmittal to the Secretary of the Army not later than 20 January of each calendar year. An information copy of the report will be furnished to the Chief of Public Information and the General Counsel.

b. The Initial Denial Authorities will submit feeder information covering the preceding calendar year to The Adjutant General, ATTN: DAAG-AMR, on or before 10 January annually as follows:

(1) An entry for each denial indicating, in columnar form, the source of the request, the subject of the request, the basis for denial expressed by appropriate exemption number under 5 USC 552, and the name and title (or position) of the official responsible for the denial. Normally, the official responsible for denial will be the IDA, i.e., the commander or head of agency specified in paragraph 2-7.

(2) A copy of all internal rules or issuances made by the IDA regarding 5 USC 552.

(3) Data on costs to administer the FOIA.

(4) Any other information indicating efforts to faithfully administer 5 USC 552.

c. The Army General Counsel will provide The Adjutant General on or before 10 January annually data for the preceding calendar year on the number of appeals made as the results of denials, the result of such appeals, the reason for

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the action on each appeal that resulted in maintenance of the denial, and the name and title (or position) of the official responsible for the maintenance of the denial.

d. The Comptroller of the Army will provide The Adjutant General on or before 10 January annually the total amount of fees collected during the preceding calendar year under FOIA.

APPENDIX A

INFORMATION PUBLISHED IN THE FEDERAL REGISTER OR MADE AVAILABLE FOR PUBLIC INSPECTION AND COPYING

A-1. Information published in the Federal Register. *a.* 5 U.S.C. 552 requires that certain information concerning the Army be made available for the use of the general public through publication in the *Federal Register*. Pursuant to these provisions, this regulation and other selected publications, together with every change, revision, or rescission thereto, are published in the *Federal Register*. The following information is made available to the public through publication in the *Federal Register*:

(1) An outline of the central and field organization of the Army, and the established places at which, the officers from whom, and the methods whereby the public may secure information, make submittals or requests, and obtain decisions.

(2) The procedures, both formal and informal, by which the Army conducts its business with the public.

(3) Rules of procedure which must be followed, forms to be completed, sources from which these forms may be obtained, and instructions on the scope and content of any papers, reports, or examinations required to be submitted pursuant to such rules of procedure.

(4) Statements of general policy and substantive rules of general applicability affecting the public.

b. No member of the general public will be required to resort to, or be adversely affected by, any matter that is required to be published in the *Federal Register*, and not so published, unless he has actual and timely notice of the information contained therein.

A-2. Information available for public inspection and copying. *a.* Subject to the exemptions set forth in paragraph 2-6 of the body of this regulation, the following categories of information will be made available for public inspection and copying:

(1) Final opinions (including concurring and dissenting opinions) and orders in adjudications that may be used, cited, or relied upon as precedent in future adjudications.

(2) Statements of policy and interpretations of less than general applicability which affect the public, but are not published in the *Federal Register*.

(3) Administrative staff manuals and instructions, or portions thereof, prescribing Army policies that are determinative of the rights of members of the public, unless these documents are published and offered for sale. This provision does not apply to instructions for employees on the tactics and techniques to be used in performing their duties, or to instructions relating only to the internal management of the Army. Examples of manuals and instructions not normally made available are—

(a) Those issued for audit and inspection purposes or those which prescribe operational tactics, standards of performance, or criteria for defense, prosecution, or settlement of cases.

(b) Operations and maintenance manuals and technical information concerning munitions, equipment, and systems.

(4) Any materials that are published in the *Federal Register* pursuant to paragraph A-1 of this appendix.

b. The following are illustrative of the information that will normally be made available for public inspection and copying:

(1) Army regulations, special regulations, general orders, Department of the Army circulars, Department of the Army pamphlets, the Army Procurement Procedure, and the Armed Services Procurement Regulation.

(2) Final decisions by boards of review created under the Uniform Code of Military Justice, decisions of the Armed Services Board of Contract Appeals, and decisions of the Army Contract Adjustment Board.

(3) Any final rules, orders, and opinions in the adjudication of cases of general public interest which may be cited as precedents.

c. Except for the material specified in *e* below, any material described in this paragraph is available for public inspection and copying in the Army

Library, Room 1A518, the Pentagon, Washington, DC 20310, which is open from 8:30 a.m. to 5 p.m. Monday through Friday.

d. The Army Library maintains an index system by subject matter to the materials available. The following are examples of the type of index that will be maintained for public reference.

(1) An index of administrative publications (DA Pam 310-1). This pamphlet includes a topical index to Department of the Army Regulations, special Regulations, circulars, pamphlets, and general orders.

(2) An index to all materials published in the *Federal Register* in accordance with paragraph 1 of this appendix.

(3) An index to Court-Martial Reports.

(4) An index to the Armed Services Procurement Regulation. This index can also be used for reference to the Army Procurement Procedure, which follows an identical paragraph numbering system.

(5) An index to the decisions of the Armed Services Board of Contract Appeals.

(6) An index to the decisions of the Army Contract Adjustment Board issued after 4 July 1967.

(7) The Army Library maintains a master list of all available indexes and will assist members of the general public in their use of these indexes.

e. Final decisions by boards of review created under the Uniform Code of Military Justice are available for public inspection and copying at the US Army Judiciary, Office of The Judge Advocate General, 5611 Columbia Pike, Washington, DC 20315. An index to all final decisions of boards of review issued after 4 July 1967 is also available at this facility.

f. The cost of copying any documentary materials made available pursuant to this paragraph will be imposed in accordance with AR 37-30.

g. Identifying details which if revealed would be a clearly unwarranted invasion of privacy may be deleted from a final opinion, order, statement of policy, interpretation, staff manual, or instruction made available for inspection and copying. However, in every case, the justification for deletion must be fully explained in writing.

h. No material described in a above, issued, promulgated, or adopted after 4 July 1967, which is not indexed and made available for public inspection and copying may be relied upon, used, or cited as precedent against any member of the public unless such person has actual or timely notice of its terms. If the material described in a above was issued, promulgated, or adopted before 4 July 1967, it need not be indexed, but must be made available for inspection and copying in accordance with this paragraph.

★APPENDIX B

OFFICIALS TO WHOM REQUESTS FOR INFORMATION MAY BE DIRECTED

Note. a The 10-day limit prescribed for review of initial requests under the Freedom of Information Act (5 USC 552(a)(6)) begins only when all of the following conditions have been satisfied:

- (1) The request must be in writing and must reasonably describe the record requested;
- (2) The requester must pay, or agree to pay, in advance all fees assessed incident to processing of his request, as prescribed by paragraph 2-6b; and
- (3) The request must be received by the appropriate official designated in this appendix.

b. To insure a prompt response in recognition of the request as an FOIA action, the request should be made with specific reference to the Freedom of Information Act. Both the letter of request and the envelope in which the request is sent should be conspicuously marked with the words "FREEDOM OF INFORMATION ACT REQUEST".

c. Public requesters should follow the guidance in this appendix carefully and direct requests to the office that possesses the record desired. If it is not clear to whom to send a request, information as to the proper official may be obtained from HQDA (DAAG-AMR-S), Forrestal Building, 1000 Independence Ave., S.W., Washington, D.C. 20314, or by telephoning Area Code 202 693-7830, or 202 693-1847.

B-1. Current publications and records of Army field commands, installations, and organizations.

a. The request must be directed to a specific office of the command, installation, or organization as indicated below:

<i>File categories</i>	<i>Specific official</i>
(1) Finance and fiscal-----	Comptroller/ Finance Officer
(2) Legal-----	Staff Judge Advocate/Legal Officer
(3) Intelligence and Security-----	Intelligence Officer
(4) Military police-----	Provost Marshal
(5) Military personnel-----	Adjutant/ Administrative Officer
(6) Civilian personnel-----	Civilian Personnel Officer
(7) Medical-----	MEDDAC/ MEDLEN Commander
(8) Training and education-----	Operations and Training Officer
(9) Communications-----	Signal Officer
(10) Transportation-----	Transportation Officer
(11) Research and Development-----	Research and Development Officer

<i>File categories</i>	<i>Specific official</i>
(12) Logistics-----	Quartermaster/ Ordnance/ Supply Officer
(13) Facilities-----	Engineer
(14) All other-----	Records Manage- ment Officer

b. A more detailed listing of all files categories maintained in Army offices is given in 16 regulations of the AR 340-18 series.

c. If it is not clear to whom to send a request for current records of a specific Army field command, installation, or organization, the Installation/Organization Information Officer may be contacted for assistance in locating the office to whom the request must be directed.

B-2. Department of the Army publications. a. The Government Printing Office has many Army publications for sale. Request should be directed to:

Superintendent of Documents
Government Printing Office
Washington, DC 20402

b. There are about 1,000 Government publication depository libraries (Title 44, USC Code) throughout the US which have copies of many Army publications available for use on site. A list

of these libraries may be obtained from the Superintendent of Documents at the above address. Requesters are urged to use these facilities.

c. Requests for reproduced copies of obsoleted, rescinded, or other noncurrent Army publications must be directed to:

Director
Washington National Records Center
General Services Administration
Washington, DC 20409

d. Requests for administrative and training publications (Army Regulations, Field Manuals, Department of the Army Pamphlets, etc.) must be directed to:

Commander
US Army AG Publications Center
2800 Eastern Blvd
Baltimore, MD 21220
(301-962-7201)

e. Requests for technical and supply publications (Technical Manuals, Modification Work Orders, Supply Catalogs, etc.) must be directed to:

Commander
US Army AG Publications Center
1655 Woodson Road
St. Louis, MO 63114
(314-268-7300)

f. Requests for Department of the Army publications or indexes not available at B-2a, B-2b, and B-2c above must be directed to:

HQDA (DAAG-PAS-I)
Forrestal Building
1000 Independence Ave., SW
Washington, D.C. 20314

Telephone inquiries to DAAG-PAS-I should be directed to Area Code 202 693-7842 or 693-7840.

B-3. Military personnel records. Requests for military personnel records or information must be directed as follows:

a. Army Reserve personnel not on active duty and retired personnel (except Retired Regular Army General Officers) Commander, US Army Reserve Components Personnel and Administration Center, 9700 Page Boulevard, St. Louis, MO 63132 (314 268-7600).

b. Former Army officer personnel discharged or deceased subsequent to 1 July 1917 and former Army enlisted personnel discharged or deceased subsequent to 1 November 1912—Director, Na-

tional Personnel Records Center, GSA, 9700 Page Boulevard, St. Louis, MO 63132.

c. Army personnel separated prior to dates specified in b above—Director, Military Archives Division, Office of National Archives, NARS, GSA, Washington, DC 20408.

d. Army National Guard personnel. Officers—Chief, National Guard Bureau. Enlisted personnel—Adjutant General of the appropriate State.

e. Military personnel on active duty—HQDA (DAPC-PAR), 200 Stovall Street, Alexandria, VA 22332 (202 325-9060), if involving commissioned or warrant officer personnel (including retired Regular Army General Officers); and to the Commander, US Army Enlisted Records Center, Fort Benjamin Harrison, IN 46429, (317 542-3111), if involving enlisted personnel.

B-4. Medical records. a. Requests for medical records of nonactive duty military personnel must be directed to the same addresses as indicated in paragraph B-3a through d.

b. Requests for medical records involving military personnel on active duty must be sent to the medical treatment facility where they are maintained. If the medical facility is not known, a request for locator service will be directed to HQDA (DAPC-PAR), 200 Stovall Street, Alexandria, VA 22332 (202 325-9060), if involving commissioned or warrant officer personnel; or to Commander, US Army Enlisted Records Center, Fort Benjamin Harrison, IN 46429 (317 542-3111) if involving enlisted personnel.

c. Requests for the medical records of civilian employees and all dependents must be directed to the medical treatment facility where maintained. If the records have been retired, requests will be addressed to the Director, National Personnel Records Center, GSA, 111 Winnebago Street, St. Louis, MO 63118.

B-5. Legal records. a. Requests involving records of trial by court-martial.

(1) General courts-martial records and those special courts-martials records where a bad conduct discharge has been approved by the convening authority must be directed to The Judge Advocate General, JAAJ-CC, Nassif Building, Falls Church, VA 22041 (202 756-1888), if the record of trial has been forwarded for appellate review. If the record has not been forwarded for appellate review, requests for such records must

be directed to the staff judge advocate of the command which has jurisdiction over the case. The Initial Denial Authority for those requests is the Judge Advocate General, JAAJ-CC, and they will be processed in accordance with paragraph 2-6.

(2) The records of trial of special courts-martial which do not involve a bad conduct discharge are retained for 10 years after completion of the case. Requests for such records of trials must be directed as follows:

(a) Up to 3 years after completion of the case. Requests must be directed to the staff judge advocate of the headquarters where the case was reviewed.

(b) From 3 to 10 years after completion of the case. Requests must be directed to the National Personnel Records Center (Military Records), 9700 Page Boulevard, St. Louis, MO 63132. After 10 years the only evidence of a special court-martial conviction is the special court-martial order maintained in the individual's permanent records. Request for such orders involving individuals currently on active duty must be directed to HQDA (DAPC-PAR), 200 Stovall Street, Alexandria, VA 22332 (202 325-9060), for commissioned and warrant officer personnel; and to the Commander, US Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249 (317 542-3111) for enlisted personnel. If the individual is no longer on active duty, the request must be directed to the National Personnel Records Center (Military Records), 9700 Page Boulevard, St. Louis, MO 63132. If the individual retired from service and is still living, or is a member of the Army Reserve, refer the request to address in paragraph B-3a.

(3) The records of trial of summary courts-martial are destroyed 1 year after action of the appropriate supervisory authority. Until that time, requests for such records of trial must be directed to the appropriate staff judge advocate at the installation where the court-martial was conducted. After 1 year the only evidence of a summary court-martial conviction is the summary court-martial order maintained in the individual's permanent records. Requests for such orders involving individuals currently on active duty must be directed to HQDA (DAPC-PAR), 200 Stovall Street, Alexandria, VA 22332 (202 325-9060) for commissioned and warrant officer

personnel and to the Commander, US Army Enlisted Records Center, Fort Benjamin Harrison, IN 46249, (317 542-3111) for enlisted personnel. If the individual is no longer on active duty the request must be directed to the National Personnel Records Center (Military Records), 9700 Page Boulevard, St. Louis, MO 63132. If the individual retired from service and is still living, or is a member of the Army Reserve, refer the request to address in paragraph B-3a.

(4) Requests submitted under a(2) and (3) above will be processed in accordance with paragraph 2-6. The Initial Denial Authority is The Judge Advocate General, (DAJA-CL), Washington, DC 20310 (202 695-5468).

b. Requests involving the administrative settlement of claims—Chief, US Army Claims Service, Fort George G. Meade, MD 20755, (301 677-7860).

c. Requests involving debarred or suspended contractors—HQDA (DAJA-ZC), Washington, DC 20310 (202 697-4769).

d. All other requests involving legal matters other than requests for records maintained by the staff judge advocate of a specific command, installation, or organization (see B-1a(2))—HQDA (DAJA-AL), Washington, DC 20310 (202 695-3614).

B-6. Civil Works program. Requests involving records relating to construction, operation, and maintenance for improvement of rivers, harbors, and waterways for navigation, flood control, and related purposes, including shore protection work of the Department of the Army, must be directed to the appropriate division or district office of the Corps of Engineers. If such office is not known, information as to the proper office may be obtained from HQDA (DAEN-GCK), Forrestal Bldg., Washington, DC 20314 (202 693-7070).

B-7. Civilian personnel records. Requests involving personnel records of civilian employees other than those pertaining to former employees must be directed to the installation at which the individual is employed. Requests involving personnel records of former civilian employees must be directed to the Director, National Personnel Records Center, GSA, 111 Winnebago Street, St. Louis, MO 63118.

B-8. Procurement matters. Requests for material relating to procurement activities must be directed to the contracting officer concerned or, if not

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feasible, to the appropriate procuring activity. If the contracting officer or procuring activity is not known, inquiries as to the proper location should be directed as follows:

a. Concerning Army Materiel Command procurement—Commander, US Army Materiel Command, 5001 Eisenhower Avenue, Alexandria, VA 22333.

b. Concerning Engineer procurement—HQDA (DAEN-GCK), Forrestal Building, Washington, DC 20314 (202 693-7070).

c. Concerning all other procurement—HQDA (DAJA-PL), Washington, DC 20310 (202 695-6209).

B-9. Criminal investigation files. Requests involving criminal investigation files will be directed to the Commander, US Army Criminal Investigation Command, ATTN: CIJA, Second and R Streets, SW, Washington, DC 20318 (Telephone

693-0371 or 693-1695). Only the Commanding General, USACIDC, is authorized to release any CIDC-originated criminal investigation file.

B-10. Personnel security investigation files. Requests involving personnel security investigative files will be directed to the Commander, US Army Intelligence Agency, ATTN: MHA-PS-D, Fort Meade, MD 20756.

B-11. Army records in Government records depositories. *a.* Noncurrent Army records are in the National Archives of the United States, Washington, DC 20408, in Federal Records Centers of the General Services Administration, and in other records depositories. Requesters must write directly to the heads of these depositories for copies of such records.

b. A list of the pertinent records depositories is published in appendix A, AR 340-1. Selected records depositories of frequent interest to requesters are listed below.

<i>Location</i>	<i>Description of files maintained</i>	<i>Administrative responsibility</i>
(1) US Army Reserve Components Personnel and Administration Center, 9700 Page Blvd., St. Louis, MO 63132.	<p><i>a.</i> Individual Official Military Personnel Folders of members of the USAR and retired officers (including retired reserve general officers); warrant officers, and enlisted personnel.</p> <p><i>b.</i> Individual Military Personnel Records Jackets (field "201" files) of members of the Individual Ready Reserve, Standby Reserve, and Retired Reserve.</p> <p><i>c.</i> Morning reports and personnel rosters for the last 3 years.</p> <p><i>d.</i> Reserve unit attendance files dating generally from 1951.</p>	The Adjutant General is responsible for the custody and administration of files maintained at the US Army Reserve Components Personnel and Administration Center.

<i>Location</i>	<i>Description of files maintained</i>	<i>Administrative responsibility</i>
(2) National Personnel Records Center (Military Records) 9700 Page Blvd., St. Louis, MO 63132	<p><i>a.</i> Individual official military personnel records of completely separated Army personnel including deceased personnel.</p> <p><i>b.</i> Morning reports and personnel rosters over 3 years old.</p> <p><i>c.</i> Clinical, consultation service, out-patient, and dental records of active military personnel, retired military personnel and members of Reserve components on active duty for training not held by US Army medical facilities. These files were received prior to 1974.</p> <p><i>d.</i> Files of Army field commands. Retired files of elements of Army field commands (except Corps of Engineers field offices) and of decentralized elements of Headquarters, Department of the Army offices, dated generally 1951 through 1963.</p> <p><i>e.</i> Separated non-Federal National Guard 201 files.</p>	The Administrator of General Services is responsible for the custody and administration of files in the National Personnel Records Center.
(3) Washington National Records Center: Address for shipments mailed: Washington, DC 20409 Address for shipments by common carrier: 4205 Suitland Road,	<p><i>a.</i> Records of activities. Records of activities in the District of Columbia, Maryland, Virginia, and West Virginia, dated generally 1955 through the present.</p> <p><i>b.</i> Officers of Headquarters, Department of the Army. Files of Headquarters, Department of the Army Offices located at seat of Govern-</p>	The Administrator of General Services is responsible for the custody and administration of these files.

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<i>Location</i>	<i>Description of files maintained</i>	<i>Administrative responsibility</i>
Suitland, MD 20409	ment, exclusive of specialized files otherwise provided for in this appendix. These files are dated generally 1939 and later.	
	c. Army field commands and special Army activities in the field. These files are dated generally 1940 through 1950 and 1964 and later.	

B-12. Other requests. Information as to the proper location for directing requests involving records of the Department of the Army, not otherwise provided for in this appendix, may be obtained

from HQDA (DAAG-AMR-S), Forrestal Building, 1000 Independence Ave., SW, Washington, DC 20314, or by telephoning Area Code 202 693-1847, or 693-7830.

★APPENDIX C

PRESERVATION OF PERSONAL PRIVACY OF MEMBERS OF THE ARMY

C-1. It is Department of the Army policy to safeguard the personal privacy of its present and former members. This policy shall be a prime consideration in the development and administration of personnel practices and procedures.

C-2. Access to personal information from personnel, medical, or similar files relating to present and former members of the US Army will be limited to those organizations and individuals requiring such information to conduct the business of the Department of the Army or other elements of the Department of Defense; the business of other Federal, State, or local agencies (including the legislative and judicial branches of government at all levels); and in such other instances where release is clearly required by the national interest.

C-3. Military personnel and civilian employees of the Army may not release or otherwise disclose personal information from personnel, medical, or similar files relating to present and former members of the Army to nongovernmental organizations or individuals, whether commercial, nonprofit, or other, without previously obtaining the written consent of the individual concerned, except as specified in this regulation. Among the kinds of information which may not be released to nongovernmental organizations or individuals without the consent of the individual concerned are—

a. Lists or compilations containing the names, addresses, or military occupational specialty identifications of present or former members of the Army (see AR 600-20 for additional restrictions on the release of rosters and lists; however, also see paragraph C-4 below for guidance on release of addresses).

b. Data from medical records, except as provided in AR 340-1 and this regulation.

c. Aptitude test scores.

d. Similar information of a personal nature.

C-4. The following guidelines are provided for use in considering requests for the address of an individual member or former member of the Army who is identified or named by the requester:

a. Duty station address (military unit of assignment), unless classified, of a specified individual

member will be furnished in response to any requests. A fee for the service may be charged in accordance with the schedule of charges in appendix D, subject to the exemptions from charges prescribed therein.

b. Requests for the home address of an individual will be considered to fall under the exemption from mandatory disclosure provided in paragraph 2-12f of this regulation and 5 USC 552(b)(6). Such requests will be handled in accordance with paragraph 2-6. Requests from creditors involving home address will be handled in accordance with AR 600-15 and 5 USC 552(a)(6).

C-5. Unauthorized release (that is, release contrary to the provisions of this regulation) to private organizations or individuals of personal information from personnel, medical, or similar files relating to present and former members without the written consent of the individual concerned shall be considered a clearly unwarranted invasion of his personal privacy within the meaning of section 5 USC 552(b)(6), as implemented by this regulation.

C-6. Commanders will establish procedures to assure that all personnel who have access to military personnel records or names and addresses of service members (especially those members being separated from active service) are periodically informed that information from these records, lists of names and addresses, or individual home addresses (except as provided by C-4b) will not be released to unauthorized sources. Commanders will also assure that all allegations of unauthorized release are examined and, when appropriate, will direct that an investigation be made.

C-7. The restrictions on access to personal information set forth in this regulation shall not be applicable to the individual concerned, to his properly authorized legal representatives, or to his next of kin whenever he is incapable for reasons of physical or mental health of governing his own affairs.

C-8. To insure the privacy and confidentiality of communications concerning or between military personnel and members of the Congress of the

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United States, a member's personnel file shall not be coded, annotated, or otherwise marked to indicate that congressional interest has been generated by the member exercising his rights under 10 USC 1034 or expressed on his behalf.

C-9. Voluntary release of data. *a.* Procedures may be developed by which individual members and former members of the Army may volunteer to authorize release of personal information for purposes of benefit to the members or former members concerned or to the national interest. Such purposes may include, but are not limited to, assistance to separating members in their transition to civilian life; other promotion of the welfare

of Army personnel; cooperation in scholarly research efforts in the national interest; and other efforts by nongovernmental agencies to further the national interest.

b. The written consent of the individuals concerned must be obtained prior to any such release of personal information to a nongovernmental agency. Development of procedures to obtain releases should be limited by the costs and resources involved in establishing and executing them, weighed against the anticipated benefits to the members or former members of the Army or to the national interest.

★APPENDIX D

SCHEDULE OF FEES FOR SEARCH AND DUPLICATION UNDER THE FREEDOM OF INFORMATION ACT AMEND- MENTS P.L. 93-502

Pursuant to the provisions of 5 USC 552, the following is the schedule of fees for search and duplication services rendered to the public by components of the Department of Defense except when those services are excluded or excepted as stated hereafter. The schedule of fees will become effective 19 February 1975.

Schedule Of Fees Duplication

Publications, Forms and Reports

Shelf stock of printed or microfiche medium (requesters may be furnished more than one copy of a publication or form if it does not deplete stock levels below projected planned usage).

Minimum fee, per request-----	\$2. 00
plus	
Forms, per copy-----	. 05
Publications, per printed page-----	. 01
Microfiche, per fiche-----	. 06
Reports, per printed page-----	. 05

Examples: Cost of 20 forms, \$3.00; cost of a printed publication consisting of 10 fiche, \$2.60.

Office copy reproduction (when shelf stock is not available).

Minimum charge up to six reproduced pages-----	\$2. 00
Minimum charge, first fiche-----	5. 00
Each additional page-----	. 05
Each additional fiche-----	. 10

Other Issuances

Minimum charge up to six pages-----	2. 00
Each additional page-----	. 05

Search

Clerical search, per hour-----	6. 50
Minimum charge-----	3. 50
Professional search (includes computer programmer time), per hour-----	13. 00
Minimum charge-----	10. 00

Computer Service charges will be based on actual computer configuration used and be based on direct cost only of the Central Processing Unit plus Input/Output Devices plus Memory Capacity.

Exceptions. 1. In general, charges may be waived when:

a. The recipient of the benefits is engaged in a nonprofit activity designed for public safety, health or welfare;

b. Payment of the full costs or fee by a state, local government or nonprofit group would not be in the interest of the program.

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c. The incremental cost of collecting the fees would be an unduly large part of the receipts from the activity.

2. A refusal to waive charges by the official responsible for the initial decision on the request for the record may be appealed to the head of the DOD component or his designee for purposes of final approval.

Collections. 1. Normally, collection of charges and fees will be made in advance of rendering the service. In some instances, it may be more practical to collect charges and fees at the time of conveying the service or property to the recipient, but only in those instances where the request specifically states that whatever cost involved will be acceptable or acceptable up to a specified limit that covers anticipated costs. Absent such an agreement to pay required anticipated costs, the time for responding to a request begins to run upon receipt of payment.

2. Collection of scheduled fees and charges will normally be deposited in Miscellaneous Receipts of the Treasury.

3. Search fees are assessable even when no records responsive to the request, or no records not exempt from disclosure are found, provided the requester is advised of the requirement at the time the estimated charges are presented to the requester for approval.

25 June 1973

AR 340-17

The proponent agency of this regulation is The Adjutant General's Office. Users are invited to send comments and suggested improvements on DA Form 2028 (Recommended Changes to Publications) direct to HQDA (DAAG-ASR-S) Washington, DC 20314.

By Order of the Secretary of the Army:

Official:

VERNE L. BOWERS

*Major General, United States Army
The Adjutant General*

CREIGHTON W. ABRAMS
*General, United States Army
Chief of Staff*

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